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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/635,919	08/06/2003	Claudius Zeiler	5858-00800	8849	
7590 11/10/2005			EXAM	EXAMINER	
Conley Rose, P.C.			REIMERS, ANNETTE R		
P.O. Box 684908 Austin, TX 78768-4908			ART UNIT	PAPER NUMBER	
11000111, 111 /	7,00 1,700		3733		

DATE MAILED: 11/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

The

1) Responsive to communication(s) filed on 19 September 2005. 2a This action is FINAL. 2b This action is non-final. 3 Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4 Claim(s) 15-28 is/are pending in the application. 4a Of the above claim(s) is/are withdrawn from consideration. 4a Of the above claim(s) is/are withdrawn from consideration. 5 Claim(s) is/are allowed. 6 Claim(s) is/are objected to. 8 Claim(s) is/are objected to. 8 Claim(s) 15-28 are subject to restriction and/or election requirement. Application Papers 9 The specification is objected to by the Examiner. 10 The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11 The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12 Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: Certified copies of the priority documents have been received in Application No. Copies of the certified copies of the priority documents have been received in Application Stage application from the International Bureau (PCT Rule 17.2(a)). *See the attached detailed Office action for a list of the certified copies not received. Interview Summary (PTO-112) Paper No(s)/Mail Date Statement(s) (PTO-1449 or PTO/SB/08) Oldier: Oldher: Oldher:		Application No.	Applicant(s)		
Annette R. Reimers 3733 AshORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. AshORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. If NO period for reply is specified above, the maximum statictory period will apply and will expire SM (50) MONTHS from the mailing date of this communication. If NO period for reply is specified above, the maximum statictory period will apply and will expire SM (50) MONTHS from the mailing date of this communication. If NO period for reply is specified above, the maximum statictory period will apply and will expire SM (50) MONTHS from the mailing date of this communication. Failure to eight with the septiment of the communication, even if timely filed, may revoke any search about term adjustment. See 37 CFR 1.794(5). Status 1) Responsive to communication(s) filed on 19 September 2005. 2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 15-28 is/are pending in the application. 4a) Of the above claim(s) is/are allowed. Claim(s) 15-28 are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required the drawing(s) to objected to. See 37 CFR 1.121(d). 11) The drawing(s) filed on is objected to by the Examiner. Note the	Office Action Summers	10/635,919	ZEILER ET AL.		
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DETAILED ACTION

Page 2

Election/Restriction

Upon further consideration, examiner has determined that an Election/Restriction

is required for this application. Restriction to one of the following inventions is required

under 35 U.S.C. 121:

1. Claims 15-22, drawn to an implant plate, classified in class 606, subclass

II. Claims 23-28, drawn to a method of manufacturing of an implant plate,

classified in class 148, subclass 661.

The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as process of making and product made. The

inventions are distinct if either or both of the following can be shown: (1) that the

process as claimed can be used to make other and materially different product or (2)

that the product as claimed can be made by another and materially different process

(MPEP § 806.05(f)). In the instant case, the implant plate can be manufactured by a

materially different process, e.g. using fiber-reinforced thermoplastics.

Because these inventions are distinct for the reasons given above and have

acquired a separate status in the art as shown by their different classification, restriction

for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the

search required for Group I is not required for Group II, and vice versa, restriction for

examination purposes as indicated is proper.

Art Unit: 3733

Election of Species

This application contains claims directed to the following patentably distinct species of the claimed invention:

Species (Implant Plate)

- I. Figure 1A
- II. Figure 3A
- III. Figure 5
- IV. Figure 13
- V. Figure 14
- VI. Figure 15

Subspecies (Fastening Member)

- I. Figures 2A-2C
- II. Figures 4A-4C
- III. Figure 5
- IV. Figures 6A-6C
- V. Figures 7A-7C
- VI. Figures 8A-8C
- VII. Figures 9A-9C
- VIII. Figures 10A-10C
- IX. Figures 11A-11C

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims appear to be generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Annette R. Reimers whose telephone number is (571) 272-7135. The examiner can normally be reached on Monday-Friday.

Application/Control Number: 10/635,919

Art Unit: 3733

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached on (571) 272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Page 5

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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EDUARDO CACBERT PRIMARY EXAMINER